

## SCHEDULE 2

(introduced by section 129(2))

### AGRICULTURAL HOLDINGS: MINOR AND CONSEQUENTIAL MODIFICATIONS

#### PART 1

##### MODERN LIMITED DURATION TENANCIES AND REPAIRING TENANCIES

###### *Sheriff Courts (Scotland) Act 1907*

- 1 (1) The Sheriff Courts (Scotland) Act 1907 is amended as follows.
- (2) In section 37A (removings: exception for certain tenancies), for “or limited duration tenancies” substitute “, limited duration tenancies, modern limited duration tenancies or repairing tenancies”.

###### *Law Reform (Miscellaneous Provisions) (Scotland) Act 1985*

- 2 (1) The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 is amended as follows.
- (2) In section 7(2) (interpretation of sections 4 to 6), in the definition of “agricultural lease”, for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.

###### *1991 Act*

- 3 (1) The 1991 Act is amended as follows.
- (2) In section 21(1) (notice to quit and notice of intention to quit), for “2” substitute “2A”.

###### *Crofters (Scotland) Act 1993*

- 4 (1) The Crofters (Scotland) Act 1993 is amended as follows.
- (2) In section 3A (new crofts), in subsection (9)(a)(ii), for “or limited duration tenancy” substitute “, limited duration tenancy, modern limited duration tenancy or repairing tenancy”.
- (3) In section 29 (miscellaneous provisions regarding subleases of crofts), in subsection (1)(b), for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.
- (4) In section 29B (status of tenant under a short lease), in paragraph (b)—
  - (a) “or” immediately after sub-paragraph (ii) is repealed,
  - (b) after sub-paragraph (iii) insert—
    - “(iv) a modern limited duration tenancy within the meaning of that Act, or
    - (v) a repairing tenancy within the meaning of that Act.”.

*Children (Scotland) Act 1995*

- 5 (1) The Children (Scotland) Act 1995 is amended as follows.
- (2) In section 76 (exclusion orders), in subsection (11)(a), for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.

*Town and Country Planning (Scotland) Act 1997*

- 6 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 35 (notice etc. of applications to owners and agricultural tenant), in subsection (7), in the definition of “agricultural land”, for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.

*2003 Act*

- 7 (1) The 2003 Act is amended as follows.
- (2) The italic heading before section 6 becomes “New types of tenancy: general provision”.
- (3) In section 10 (increase in rent: landlord's improvements), in subsection (1), after “tenancy” insert “, a modern limited duration tenancy or a repairing tenancy”.
- (4) In section 11 (variation of rent by Land Court)—
- (a) after “tenancy” insert “, a modern limited duration tenancy or a repairing tenancy”,
  - (b) for “or 16” substitute “, 16, 16A or 16B”.
- (5) In section 12 (right of tenant to withhold rent), in subsection (1)(b), for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.
- (6) In section 13 (written leases and the revision of certain leases)—
- (a) in subsection (1)—
    - (i) for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”,
    - (ii) in paragraph (b)(ii), after “Act)” insert “, section 16A or, as the case may be, section 16B”,
  - (b) in subsection (2)(b), after “16” insert “, 16A or, as the case may be, 16B”,
  - (c) in subsection (4)(a), after “Act)” insert “, section 16A or, as the case may be, section 16B”,
  - (d) in subsection (5), after “16” insert “, 16A or, as the case may be, 16B”.
- (7) In section 14 (freedom of cropping and disposal of produce), for “and limited duration tenancies” substitute “, limited duration tenancies, modern limited duration tenancies and repairing tenancies”.
- (8) In section 15 (permanent pasture), for “and limited duration tenancies” substitute “, limited duration tenancies, modern limited duration tenancies and repairing tenancies”.

- (9) In section 17 (resumption of land by landlord), in subsection (1)—
- (a) for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”,
  - (b) in sub-paragraph (ii), after “tenancy” insert “or a modern limited duration tenancy”.
- (10) In section 19 (resumption and irritancy: supplementary)—
- (a) for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”,
  - (b) in paragraph (a), after “17” insert “or 17A”.
- (11) In section 22 (right of landlord to object to acquirer of tenancy)—
- (a) in subsection (1), for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”,
  - (b) in subsection (3), for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.
- (12) In section 23 (effect of termination of tenancy where tenant deceased), for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.
- (13) In section 39 (use of land for non-agricultural purposes), in subsection (1)—
- (a) “or” immediately after paragraph (a) is repealed,
  - (b) after paragraph (b) insert—
    - “(c) tenancy under a lease constituting a modern limited duration tenancy, or
    - (d) tenancy under a lease constituting a repairing tenancy,”.
- (14) In section 42 (tenant’s right to timber), in subsection (1)—
- (a) “or” immediately after paragraph (a) is repealed,
  - (b) after paragraph (b) insert—
    - “(c) a modern limited duration tenancy, or
    - (d) a repairing tenancy,”.
- (15) The italic heading before section 45 becomes “New types of tenancy”.
- (16) In section 45 (right to compensation for improvements)—
- (a) in subsection (1), for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”,
  - (b) after subsection (4) insert—
    - “(5) Nothing in any order made under section 73 of the 1991 Act which varies the provisions of schedule 5 to that Act affects the right of a tenant of a short limited duration tenancy, a limited duration tenancy or a modern limited duration tenancy to claim, in respect of an improvement made or begun before the date on which such order comes into force, any compensation to which, but for the making of the order, the tenant would have been entitled.”.
- (17) In section 46 (payment of compensation by incoming tenant), for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”.

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*Status: This is the original version (as it was originally enacted).*

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- (18) The italic heading before section 52 becomes “New types of tenancy”.
- (19) In section 52 (compensation for disturbance)—
- (a) in subsection (1)(b), for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”,
  - (b) in subsection (2)(b)(i), for “or limited duration tenancy” substitute “, limited duration tenancy or modern limited duration tenancy”.
- (20) In section 53 (compensation for other particular things)—
- (a) in subsection (1)—
    - (i) for “and limited duration tenancies” substitute “, limited duration tenancies and modern limited duration tenancies”,
    - (ii) in paragraph (b), after “16” insert “or 16A”,
  - (b) in subsection (2), after first “tenancies” insert “and to modern limited duration tenancies”,
  - (c) in subsection (3), for “and limited duration tenancies” substitute “, limited duration tenancies and modern limited duration tenancies”.
- (21) In section 54 (compensation where compulsory acquisition of land), in subsection (1), for “or limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”.
- (22) In section 55 (right to compensation for yielding vacant possession)—
- (a) in subsection (1)—
    - (i) “and” immediately after paragraph (a) is repealed,
    - (ii) after paragraph (b) insert “, and
    - (c) a modern limited duration tenancy.”,
  - (b) in subsection (8)(a), after second “tenancy” insert “or a modern limited duration tenancy”.
- (23) In section 56 (no right to penal rent etc.), for “or limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”.
- (24) In section 57 (provision as to parts of land and divided land)—
- (a) in subsection (1), for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”,
  - (b) in subsection (3), for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”.
- (25) In section 59 (extent to which compensation recoverable under agreements)—
- (a) in subsection (1), for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”,
  - (b) in subsection (3), for “or a limited duration tenancy” substitute “, a limited duration tenancy or a modern limited duration tenancy”.
- (26) In section 70 (rights of certain persons where tenant is a partnership), in subsection (1)(b), for “or a limited duration tenancy” substitute “, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy”.
- (27) In section 77 (resolution of disputes by Land Court)—
- (a) in subsection (2)(a)—
    - (i) “or” immediately after sub-paragraph (ii) is repealed,

- (ii) after sub-paragraph (ii) insert—
      - “(ia) a modern limited duration tenancy, or
      - (ib) a repairing tenancy,”
  - (b) in subsection (4)—
    - (i) after first “tenancy” insert “, a modern limited duration tenancy or a repairing tenancy”,
    - (ii) after “7(1)” insert “or, as the case may be, 7B(1), 7D(1) or 7D(7)”.
- (28) In section 81 (clauses in leases as to resolution of disputes), in paragraph (a), after second “tenancy” insert “, a modern limited duration tenancy, a repairing tenancy”.
- (29) In section 92 (ancillary provision), in subsection (2), for “and limited duration tenancies” substitute “, limited duration tenancies, modern limited duration tenancies and repairing tenancies”.
- (30) In section 93 (interpretation)—
- (a) for the definition of “limited duration tenancy” substitute—
    - ““limited duration tenancy” means a tenancy—
    - (a) created by virtue of section 5(1), or
    - (b) converted by virtue of section 5(2), (3) or (4),
 before the repeal of that section by section 85(2) of the Land Reform (Scotland) Act 2016,  
 “modern limited duration tenancy” is to be construed in accordance with section 5A,”
  - (b) after the definition of “the Parliament” insert—
    - ““repairing tenancy” is to be construed in accordance with section 5C,”.

*Antisocial Behaviour etc. (Scotland) Act 2004*

- 8 (1) The Antisocial Behaviour etc. (Scotland) Act 2004 is amended as follows.
- (2) In section 83 (registration of certain landlords: application for registration), in subsection (6)(f)(i), for “or limited duration tenancy” substitute “, limited duration tenancy, modern limited duration tenancy or repairing tenancy”.

*Housing (Scotland) Act 2006*

- 9 (1) The Housing (Scotland) Act 2006 is amended as follows.
- (2) In section 12 (tenancies to which repairing standard duty applies), in subsection (1)—
- (a) “or” immediately after paragraph (c)(i)(B) is repealed,
  - (b) after paragraph (c)(i)(C) insert—
    - “(D) a modern limited duration tenancy (within the meaning of that Act), or
    - (E) a repairing tenancy (within the meaning of that Act),”.

## PART 2

### SALE WHERE LANDLORD IN BREACH

#### *2003 Act*

- 10 (1) The 2003 Act is amended as follows.
- (2) In section 32 (tenant's right to buy: procedure for buying), in subsection (6)(b), "if the tenant has not so concluded missives," is repealed.
- (3) In section 84 (power of Land Court to grant remedies etc.), in subsection (2), "in respect of fixed equipment" is repealed.

## PART 3

### RENT REVIEWS

#### *1991 Act*

- 11 (1) The 1991 Act is amended as follows.
- (2) In section 5 (fixed equipment and insurance premiums), in subsection (4B)(b), for "section 13" substitute "paragraph 7 of schedule 1A".
- (3) In schedule 8 (supplementary provisions with respect to payments under section 56) —
- (a) in paragraph 2(a)—
    - (i) "13 or" is repealed,
    - (ii) after "Act" insert "or paragraph 7 of schedule 1A",
  - (b) in paragraph 3—
    - (i) in paragraph (a)(i), for "section 13 of this Act" substitute "paragraph 7 of schedule 1A",
    - (ii) for "the said section 13" substitute "paragraph 7(2) to (4) of schedule 1A",
  - (c) in paragraph 4, for "section 13(1) of this Act shall have effect as if for the reference therein to the next ensuing day" substitute "paragraph 7(2) of schedule 1A is to have effect as if for the reference to the effective date".

#### *2003 Act*

- 12 (1) The 2003 Act is amended as follows.
- (2) In section 54 (compensation where compulsory acquisition of land), in subsection (6)(b)—
- (a) for "sections 13 and 15 of that Act" substitute "paragraph 7 of schedule 1A and section 15 of that Act",
  - (b) for "sections 9 and 10" substitute "sections 9B and 10".
- (3) Section 63 (variation of rent) is repealed.
- (4) In the schedule, paragraph 15 is repealed.

*Agricultural Holdings (Amendment) (Scotland) Act 2012*

- 13 (1) The Agricultural Holdings (Amendment) (Scotland) Act 2012 is amended as follows.
- (2) Section 3 (effect of VAT changes on determination of rent) is repealed.

**PART 4**

ASSIGNATION AND SUCCESSION

*Succession (Scotland) Act 1964*

- 14 (1) The Succession (Scotland) Act 1964 is amended as follows.
- (2) In section 16 (provisions relating to leases)—
- (a) in subsection (2)(c), for “section 11” substitute “section 12A or 12B”,
  - (b) in subsection (2A)(b), after “other than” insert “the lease of a 1991 Act tenancy or”,
  - (c) in subsection (3)(b)(i)—
    - (i) for “or an application to that court under section 11 of the 1991 Act” substitute “, an application under section 12A of the 1991 Act or an appeal under section 12B of that Act to that court”,
    - (ii) for “or, as the case may be, the application” substitute “, the application or, as the case may be, the appeal”,
  - (d) in subsection (8), for “, or, as the case may be, section 11(2) to (8) of the 1991 Act, or, as the case may be,” substitute “, sections 11(8), 12A and 12B of the 1991 Act,”.
- (3) In section 29 (right of tenant to bequeath interest under lease), in subsection (2), for “section 11” substitute “sections 11 or 12A to 12C”.

*1991 Act*

- 15 (1) The 1991 Act is amended as follows.
- (2) In section 22 (restrictions on operation of notices to quit)—
- (a) in subsection (1), “and to section 25 of this Act” is repealed,
  - (b) in subsection (2), paragraph (g) is repealed.
- (3) In section 24 (consents for the purposes of section 22)—
- (a) in subsection (1), “and to section 25(3) of this Act” is repealed,
  - (b) in subsection (3), “(subject to section 25(4) of this Act)” is repealed.
- (4) In section 55 (additional payments to tenants quitting holdings: supplementary provision)—
- (a) in subsection (1), paragraph (c) is repealed,
  - (b) in subsection (2), in paragraph (b), “or, where the tenant has succeeded to the tenancy as the near relative of a deceased tenant, as to the matter referred to in any of Cases 1, 3, 5 and 7 in Schedule 2 to this Act” is repealed,
  - (c) in subsection (6)—
    - (i) for “by virtue of a notice to quit” substitute “under section 12B”,
    - (ii) paragraph (a) is repealed,

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*Status: This is the original version (as it was originally enacted).*

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(iii) in paragraph (c), for “notice” substitute “counter-notice under section 12B(2)”.

(5) Schedule 2 (grounds for consent to operation of notices to quit a tenancy where section 25(3) applies) is repealed.

#### *2003 Act*

16 (1) The 2003 Act is amended as follows.

(2) In section 21 (bequest of lease), for subsection (2) substitute—

“(2) Sections 11(2) and (3), 12A, 12B and 12C(1) and (2) of the 1991 Act apply in relation to subsection (1) as they do in relation to section 11(1), subject to the following modifications—

- (a) in section 11(2), the words “of a holding” and “of the holding” are omitted,
- (b) in section 12A, in subsections (3)(b) and (c) and (4)(b), for “holding” substitute “land comprised in the lease”,
- (c) in section 12C, in subsection (1), for “holding” substitute “land comprised in the lease”.”.

(3) In section 22 (right of landlord to object to acquirer of tenancy), for subsection (2) substitute—

“(2) Sections 12A, 12B and 12C(1), (2) and (5) of the 1991 Act apply in relation to subsection (1) as they do in relation to section 12(1), subject to the following modifications—

- (a) in section 12A—
  - (i) in subsection (2), the reference to notice given under section 12(1) is to be read as a reference to notice given under subsection (1),
  - (ii) in subsections (3)(b) and (c) and (4)(b), for “holding” substitute “land comprised in the lease”,
- (b) in section 12B(2), the reference to notice given under section 12(1) is to be read as a reference to notice given under subsection (1),
- (c) in section 12C, in subsection (1), for “holding” substitute “land comprised in the lease”.”.

#### *Agricultural Holdings (Amendment) (Scotland) Act 2012*

17 (1) The Agricultural Holdings (Amendment) (Scotland) Act 2012 is amended as follows.

(2) Section 1 (succession by near relatives) is repealed.

## **PART 5**

### GENERAL MODIFICATIONS

#### *1991 Act*

18 (1) The 1991 Act is amended as follows.



- (2) The title of section 10A becomes “**Assignment of tenancy**”.

*2003 Act*

- 19 (1) The 2003 Act is amended as follows.
- (2) In section 91 (orders and regulations)—
- (a) in subsection (3)(a), “, 25(7)” is repealed,
  - (b) in subsection (3)(b)—
    - (i) after “section” insert “5B(3), 9A(3),”,
    - (ii) for “25(3) or 26(2)” substitute “18A(4)(b)(ii), 26(2), 38A(4)(c), 38B(6)(e), 38L(4)(c) or 38P(2)”,
  - (c) in subsection (4)(b)—
    - (i) after “section” insert “9B(3), 9C(6),”,
    - (ii) after “36(7)” insert “, 38C(1), 38D(4), 38M(1), 38O(4), 59A”,
    - (iii) for “or 74,” substitute “, 74 or 74A,”.